

**MINUTES**  
**ENFORCEMENT COMMITTEE MEETING**  
**TEXAS BOARD OF PROFESSIONAL ENGINEERS**  
**1917 IH-35 SOUTH, BOARD ROOM, AUSTIN, TX**  
**November 17, 2011 – 9:00 a.m.**

**CALL TO ORDER.** Acting Committee Chair Edward L. Summers, Ph.D., called the Enforcement Committee meeting to order at 9:08 a.m. on November 17, 2011, at the Texas Board of Professional Engineers, (TBPE) 1917 Interstate 35 South, Austin, Texas. (Note: All votes are unanimous unless otherwise indicated.)

**1. Roll call and welcome visitors.**

Edward L. Summers, Ph.D.	Acting Chair
Daniel O. Wong, Ph.D., P.E.	Member
Lamberto “Bobby” Ballí, P.E.	Member

A quorum was present. Ms. Veena Mohan, Assistant Attorney General, was present to provide legal counsel. Mr. Edmundo Gonzalez, P.E., Emeritus Board Member was present.

**The following staff members were present:**

Lance Kinney, P.E.	Executive Director
Priscilla Pipho, MPA	Deputy Executive Director
C.W. Clark, P.E.	Director of Compliance & Enforcement
Clif Bond	Supervising Investigator
Dewey Helmcamp, III, JD	Staff Attorney
Debbie Trevino	Program Administrator
Dorothy Gonzales	Executive Assistant

**Visitors:** Al Kosik, P.E., Texas Department of Transportation; Peyton McKnight, American Council for Engineering Companies - Texas; Doug Bell, Texas Society of Professional Engineers (TSPE); Carol and Ron Hemphill.

- 2. Public comment.** Ms. Carol Hemphill addressed the Committee and provided the Committee with her views on the role of the Board in the complaint process. She stated her view regarding the complexity of the complaint process. She pointed out that her complaint was joined with another complaint for purposes of investigation and was not assigned an individual number. Ms. Hemphill stated her opinion on the investigation process and suggested that the complainant be allowed to summarize the complaint themselves. She also discussed her views about the internal communication process and her views and opinion regarding the informal conference process. Dr. Summers commented that all public comments are taken seriously.

**DISCUSS AND POSSIBLY ACT ON THE FOLLOWING (AGENDA ITEMS 3-7):**

**3. Discuss and possibly approve the August 18, 2011, Enforcement Minutes.**

It was MOVED/SECONDED (Wong/Ballí) to approve the August 18, 2011, Enforcement Minutes. A vote was taken, and the MOTION PASSED.

**4. Director Of Compliance & Enforcement Report.**

- Discuss and possibly act on the following rule adoptions

(*Motion*)

- §137.51 General Practice. This rule is related to responses to board requests, and the change replaces the term “promptly” with 21 days. One comment received concerned how the Board would handle a situation where the engineer is out of the country. All the comments were addressed in the preamble of the rule and do not require the rule to be modified further. There was discussion on whether the 21 days were calendar or working days. Clarification was provided that the letter sent to the engineer clearly states the specific date a response is due, which will include the 21 days.
- §139.35 Sanctions and Penalties.

It was MOVED/SECONDED (Ballí/Wong) to recommend to the Board at its Regular Quarterly Meeting on November 17, 2011, to adopt rules §§137.71 General Practice and 139.35 Sanctions and Penalties. A vote was taken and the MOTION PASSED.

- C & E Process Improvements

Mr. Clark reported that C&E is currently working on improving processes and establishing a more efficient method of executing tasks.

5. **Staff Attorney Report.**

Mr. Helmcamp reported on the following:

- SOAH Cases

All the previous cases reported at the August 2011 meeting have been filed and have been set for hearing or are waiting on the judge's schedule to set up.

- Suits Against the Board

There are three cases pending against the Board. Ms. Mohan filed a plea of jurisdiction for the Castillo case, which was heard and granted. The time for filing a motion for a new trial or appeal is November 21<sup>st</sup>. If Mr. Castillo does not file a motion for appeal, his license will be revoked; if he does, the time may be extended slightly.

- Status of Court Cases (Injunctions)

The Oxford Global Resources case is being worked with Mr. Kevin Heyburn. Mr. Heyburn is prepared to file for an injunction.

Mr. Kinney commented that it has been great having Mr. Helmcamp on board and moving these cases forward.

6. **Discuss, consider, and possibly act on decision resulting from SOAH case and Final Order for the following cases:**

- D-31962 & D-31993; Charles B. Urban

Mr. Helmcamp commented that this was a windstorm case involving faulty or defective inspections by Mr. Urban in two separate inspections in Galveston. The Board filed for a hearing and Mr. Urban was provided adequate time and notice regarding the place of the hearing; however he did not appear and the Board received a default judgment. The staff requests the Committee recommend to the Board to accept the final board order assessing the penalty that staff sought from the filing of this complaint.

The Committee heard and discussed the penalty as outlined in the exhibit.

It was MOVED/SECONDED (Ballí/Wong) to recommend to the Board at its Regular Quarterly Board meeting on November 17, 2011, to adopt the final order presented to the Board for Mr. Charles B. Urban. A vote was taken, and the MOTION PASSED.

7. **Issues for consideration and schedule next meeting.**

None.

**ADJOURN.**

It was MOVED/SECONDED (Ballí/Wong) to adjourn the meeting at 9:58 am. A vote was taken, and the MOTION PASSED.

Date Committee approved as submitted:  
Date Board accepted:

February 15, 2012  
February 15, 2012